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2373;

Your 2349 and LONDON's 5530 rptd Bonn 396

Since April 4 Berlin contingency planning paper did not take position on disputed question whether stamping of document would be acceptable part of identification procedure if GDR personnel replaced Soviets at checkpoints, we had anticipated Embassies at Bonn might have difficulty reaching agreement on this point. We had hoped however that genuine attempt would be made reach as broad understanding as possible on basis April 4 paper and that questions on which further guidance would be sought would be reduced to minimum. We are therefore disturbed to note from REFTEL that no progress has been made in developing recommendations re identification and checkpoint procedures, that little effort appears to have been made to resolve differences through discussion and to reduce and isolate specific procedural recommendations on which further instructions should be sought, and that Embassies' positions appear to be diverging farther despite substantial Governmental-level agreement embodied April 4 paper.

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Principal difficulty appears be whose position difficult reconcile with April 4 paper and weaker than position taken by British in discussions here. He seems be taking position we should go through essentially same procedures at checkpoints with GDR personnel as we do now with Soviet personnel regardless of whether agency relationship acknowledged. While British indicated here they believed stamping of documents by GDR personnel acceptable, it was they who specifically recommended instructions for checkpoint procedures should differentiate between situation in which Soviet acknowledged agency and situation in which Soviets did not. British, during meeting of President and Prime Minister, suggested inclusion of statement Three Powers should accept "procedures v. agreed to be reasonable to enable GDR personnel to ensure orderly progress of traffic but

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but they did not indicate they interpreted this wording as
"also note inconsistency between GDR position and British proposal for Berlin
tabled for Four-Power Working Group discussion. This proposal indicates British
would be willing conclude new agreement confirming Allied rights and Soviet obliga-
tions re access and might permit Soviet responsibilities to be exercised by third
party but that GDR could be such third party only if Soviet Government expressly
stated GDR acting as its agent.

While we recognize logic of legal argument that we do not now accept "control"
of traffic by Soviets and thus would not be accepting "control" by GDR if we went
through same procedures with latter, we do not believe issue turns on this argument
alone. Equally or more important considerations are those cited in Department's
CG-524, namely that it would be difficult convince public opinion we had not in
fact accepted substitution of GDR for USSR in matters related our access, and by
French in REFTEL, namely that we would only have postponed crisis with which we
would have to deal later from weakened position.

We also believe Embassy might wish in further discussions state US position
in somewhat more elastic terms, e.g. identification procedures should involve
"minimum" rather than "no" contact with GDR personnel and, while identification by
affixing distinctive signs theoretically most desirable for this reason, display
of document could also be accepted under certain conditions. (See Department's
2071 and CG-524.)

One of conclusions emerging from long contingency planning discussions which
is embodied in April 4 paper is that, despite risks which even minimum dealing with
GDR re access may entail, it is doubtful we could face showdown and attempt re-
establish access by force if ostensible issue were whether we should accept minimal
GDR functions which did not per se affect possibility of movement to and from Berlin
on as free a basis as at present. Embassies' problem, and we recognize it is
difficult one, is thus to work out identification and checkpoint clearance pro-
cedures (for situation in which Soviets do not acknowledge GDR as their agents)
which can satisfy public opinion we are doing what we reasonably can in consideration
of our right of unrestricted access to accommodate ourselves to difficult situation
arbitrary Soviet withdrawal has created and which at same time are sufficiently
different from procedures now followed with Soviets (and which we might presumably
follow if Soviets acknowledged agency relationship) to enable us convincingly to
maintain we have not simply accepted substitution of GDR for USSR. Naturally we
cannot exclude possibility Embassies may in long run be unable develop recommenda-
tions for procedures meeting these criteria but we are not satisfied adequate effort
has already been made to do so. In this connection we wish comment that, while we
put forward suggestion travel orders be prepared in multiple copies and one copy
handed over at each checkpoint (Department's G-452) only as one of various approaches

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Embassies might examine, we wonder its disadvantages are as great as Embassy's G-571 indicates. Should be b- mind that public statement provided for paragraph 2 April 4 paper would help minimize not only legal but also political difficulties involved in any procedures which permit GDR exercise minimum functions re our access. Thus believe Embassy may wish table suggestion in G-452 for discussion although with explanation it does not represent considered US proposal.

We plan raise situation described REFTEL with British and French Ambassadors here and suggest Governments instruct Embassies at Bonn proceed urgently to make recommendations requested in April 4 paper.

We concur that existing tripartitely agreed checkpoint instructions adequately protect US position in interim.

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